

## Parkland Impact Ordinance

### **1) What is the Park Impact Ordinance (PIO)?**

The PIO is a law enacted by the City council to help provide neighborhood park and recreation facilities to meet the needs generated by residents of new housing units ( SJMC 14.25). Copies of the current Ordinance and Park Fee Schedule are available from the Community Development Division. Please call 408/794-1388 for more information.

### **2) What are the requirements of the Ordinance?**

The ordinance requires all residential developers to dedicate land or pay in-lieu fees for any net increase in residential units. The standard under the PIO for land dedication or payment of in-lieu fees is three acres per 1,000 new residents. In lieu fees may be paid for developers not required to dedicate park land. Developers do not need to enter into a Parkland Agreement unless credits are issued (See question six).

### **3) What is the Parkland Agreement?**

The Parkland Agreement is a contract between the City and the developer that sets forth the developer's obligations under the PIO. Depending on the conditions imposed on the development through the City's permitting processes, the Parkland Agreement may specify one or more of the following: dedication of land and/or installation of public park improvements by the developer. The Parkland Agreement will also specify any credits for private recreation improvements to be installed in the development. Contact Public Works-Development services at 408-277-5161, to set up an appointment to discuss preparation of the Parkland Agreement.

### **4) If I build low income housing, do I still have to dedicate parkland or pay in-lieu fees?**

Low-income residential units are eligible to receive a Low Income Unit Voucher from the City for any units qualifying as low income units under California Redevelopment Law. An affordability restriction must be recorded on each low-income unit prior to issuance of building permits. Contact Development Services for more information at 408-277-5161.

### **5) If I build housing downtown, do I still have to dedicate land or pay fees?**

Residential subdivisions in the Downtown Core and downtown frame area are no longer exempt from PIO requirements. Parkland fees to be paid in full at the time building permits are issued, or as specified in an executed Parkland Agreement with the developer, are the fees in effect at the time that building permits are issued. Please refer to the Park Fee Schedule for the Parkland Fees in effect currently.

### **6) Do I receive credit for building private recreation amenities in my development?**

Yes, you can receive up to 50% credit against land dedication or in-lieu fee requirements for qualified private recreation improvements constructed in certain residential projects, such as large apartment projects. To be eligible for these credits, developers must provide at least one of the following active elements in their project: tot lot, picnic area, game court (uses such as tennis, basketball, handball, racquetball or roller hockey) and/or turf playing field (contiguous turf area). Additional credits for swimming pool and recreation building square footage can be received in an

amount equal to the total square footage of one or more of the active elements listed above or the total square footage of the swimming pool/recreation building, whichever is less. Private recreation improvements shall be owned and maintained by the owner of the project site. A Parkland Agreement is required to receive these credits.

**7) If the City requires the dedication of land, how much land do I have to dedicate?**

The formula for dedication of land is: Minimum acreage dedication = .003 x Average number of persons per dwelling unit x Number of dwelling units. For example, if you were developing 50 apartment units your parkland dedication requirement would be: .003 x 2.29 (from 1990 Census average person per household for multi-family detached units in San Jose) x 50 = .34 acres (or 14,963 square feet).

**8) If the City requires the payment of fees, how much do I have to pay?**

The total fee is equal to the fee per new dwelling unit multiplied by the number of dwelling units. The fees may be reduced based on the total area of qualifying private recreation improvements and/or public parkland dedicated with the project. For example, if a project's public parkland dedication requirement is four acres, and the developer receives one acre of credit for private recreation facilities, then the developer would pay fees equivalent to only the value of three acres (75% of the fee).

**9) Do I have to pay fees if I build a Residential Care Facility for the elderly?**

Residential Care Facilities for the elderly may defer payment of fees if 100% of the units are covered by a license issued by the State of California to provide care to non-ambulatory elderly residents. The owner of the Residential Care Facility must enter into a fee deferment agreement with the City. Under this agreement, payment of the park fees is deferred until such time that the facility no longer meets the eligibility requirements for a Residential Care Facility. Please refer to the PIO for specific eligibility requirements.

**10) Can I receive credit for dedicating school property or property owned by another public agency such as the Water District?**

Developers can receive credit for property dedicated for a new public school if the property is used for neighborhood park and recreation purposes, and is improved with public park improvements in accordance with City standards. The developer must provide the City with an easement in favor of the City restricting use of the property for park and open space purposes. Credit for property owned by another public agency may be eligible if the property is improved with public park improvements in accordance with City standards. The developer must secure an easement in favor of the City from the public agency allowing use of the property for park and open space purposes.

**11) When do I have to pay fees?**

Fees are due as you are issued building permits for your development. Please refer to the PIO for procedures which may apply in certain limited cases for delaying the payment of park fees.

**Where do I pay the fees?**

Parkland fees are paid directly to the Building Division, Room 200, City Hall Annex, or to Public Works Development Services Division at Contract Development Services (408) 277-5161 for more information. Please refer to the PIO and the Park Fee Schedule for specific requirements of the PIO. Requirements for the City's PDO/PIO are subject to change by the City Council.